



February 20, 2009

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## SENATE BILL No. 222

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DIGEST OF SB 222 (Updated February 17, 2009 5:06 pm - DI 106)

**Citations Affected:** IC 35-46; noncode.

**Synopsis:** Killing a domestic animal. Makes it killing a domestic animal, a Class D felony, for a person to knowingly or intentionally kill a domestic animal without the consent of the owner of the domestic animal. Provides certain defenses to killing a domestic animal, including if the animal was killed to protect a person or property.

**Effective:** July 1, 2009.

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**Arnold, Steele, Young R, Zakas,  
Head, Randolph, Lanane, Tallian**

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January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.  
February 19, 2009, amended, reported favorably — Do Pass.

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SB 222—LS 6978/DI 69+



February 20, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE BILL No. 222

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-46-3-0.5, AS ADDED BY P.L.171-2007,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 0.5. The following definitions apply throughout  
4 this chapter:

5 (1) "Abandon" means to desert an animal or to leave the animal  
6 permanently in a place without making provision for adequate  
7 long term care of the animal. The term does not include leaving  
8 an animal in a place that is temporarily vacated for the protection  
9 of human life during a disaster.

10 (2) "Beat" means to unnecessarily or cruelly strike an animal, or  
11 to throw the animal against an object causing the animal to suffer  
12 severe pain or injury. The term does not include reasonable  
13 training or disciplinary techniques.

14 (3) "Domestic animal" means an animal that is not wild. The  
15 term is limited to:

16 (A) cattle, calves, horses, mules, swine, sheep, goats, dogs,  
17 cats, poultry, ostriches, rhea, and emus; and

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**(B) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species.**

~~(3)~~ **(4) "Mutilate"** means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:

- (A) serious permanent disfigurement;
- (B) serious temporary disfigurement;
- (C) permanent or protracted loss or impairment of the function of a bodily part or organ; or
- (D) a fracture.

~~(4)~~ **(5) "Neglect"** means to:

- (A) endanger an animal's health by failing to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink; or
- (B) restrain an animal for more than a brief period by the use of a rope, chain, or tether that:
  - (i) is less than three (3) times the length of the animal;
  - (ii) is too heavy to permit the animal to move freely; or
  - (iii) causes the animal to choke.

~~(5)~~ **(6) "Torture"** means:

- (A) to inflict extreme physical pain or injury on an animal with the sole intent of increasing or prolonging the animal's pain; or
- (B) to administer poison to a cat or dog, or expose a cat or dog to a poisonous substance with the intent that the cat or dog ingest the substance and suffer harm, pain, or physical injury.

SECTION 2. IC 35-46-3-12, AS AMENDED BY P.L.171-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

- (1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and
- (2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

- (1) the person has a previous, unrelated conviction under this

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section;

(2) the person knowingly or intentionally tortures or mutilates a vertebrate animal; or

(3) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

**(c) A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.**

~~(c)~~ **(d)** It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

~~(d)~~ **(e)** When a court imposes a sentence or enters a dispositional decree under this section concerning a person described in subdivision (1), the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult;

to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

**SECTION 3. [EFFECTIVE JULY 1, 2009] This act applies only to offenses committed after June 30, 2009.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 222, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph, and insert:

"SECTION 1. IC 35-46-3-0.5, AS ADDED BY P.L.171-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Abandon" means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.

(2) "Beat" means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.

**(3) "Domestic animal" means an animal that is not wild. The term is limited to:**

**(A) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and**

**(B) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species.**

~~(3)~~ **(4) "Mutilate" means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:**

**(A) serious permanent disfigurement;**

**(B) serious temporary disfigurement;**

**(C) permanent or protracted loss or impairment of the function of a bodily part or organ; or**

**(D) a fracture.**

~~(4)~~ **(5) "Neglect" means to:**

**(A) endanger an animal's health by failing to provide the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink; or**

**(B) restrain an animal for more than a brief period by the use of a rope, chain, or tether that:**

**(i) is less than three (3) times the length of the animal;**

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- (ii) is too heavy to permit the animal to move freely; or
- (iii) causes the animal to choke.

~~(5)~~ (6) "Torture" means:

- (A) to inflict extreme physical pain or injury on an animal with the sole intent of increasing or prolonging the animal's pain; or
- (B) to administer poison to a cat or dog, or expose a cat or dog to a poisonous substance with the intent that the cat or dog ingest the substance and suffer harm, pain, or physical injury.

SECTION 2. IC 35-46-3-12, AS AMENDED BY P.L.171-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

- (1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and
- (2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

- (1) the person has a previous, unrelated conviction under this section;
- (2) the person knowingly or intentionally tortures or mutilates a vertebrate animal; or
- (3) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.

**(c) A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.**

~~(c)~~ (d) It is a defense to a prosecution under this section that the accused person:

- (1) reasonably believes the conduct was necessary to:
  - (A) prevent injury to the accused person or another person;
  - (B) protect the property of the accused person from destruction or substantial damage; or
  - (C) prevent a seriously injured vertebrate animal from prolonged suffering; or
- (2) engaged in a reasonable and recognized act of training,

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handling, or disciplining the vertebrate animal.

~~(d)~~ (e) When a court imposes a sentence or enters a dispositional decree under this section concerning a person described in subdivision (1), the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult;

to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree."

Page 2, delete lines 1 through 16.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 222 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0.

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**Y**

